
A BILL FOR AN ACT

RELATING TO THE MOTOR VEHICLE INDUSTRY LICENSING ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 437, Hawaii Revised Statutes, is
2 amended by adding two new sections to be appropriately
3 designated and to read as follows:

4 "§437- Used motor vehicle site inspections. (a) A site
5 upon which a motor vehicle dealer conducts a used motor vehicle
6 business shall be subject to annual inspection by the board to
7 ensure compliance with this chapter and rules of the board. The
8 board may conduct the inspections using the board's staff or the
9 board may retain a consultant to perform inspections.

10 (b) An applicant for a new or used motor vehicle license
11 or for renewal of a new or used motor vehicle license shall be
12 assessed a fee of \$250 to defray the cost of each inspection;
13 provided that in the case of an inspection by a consultant, the
14 consultant shall receive the fee of \$250.

15 (c) The board shall retain any report of an inspection
16 under this section for a period of not less than three years.

17 (d) This section shall not apply to a holder of a new
18 motor vehicle license or an auction license.



1 §437- Release of motor vehicles from auction. Prior to
2 the transfer of any motor vehicle to a dealer pursuant to an
3 auction, the motor vehicle shall be insured as required under
4 section 431:10C-104. This section shall not apply to the holder
5 of a new motor vehicle dealer's license or auction license."

6 SECTION 2. Section 437-7, Hawaii Revised Statutes, is
7 amended by amending subsection (d) to read as follows:

8 "(d) Requirement for lines of credit shall be as follows:

9 (1) Applicants for issuance of a dealer's license shall
10 obtain an inventory or flooring line of credit from a
11 federally insured financial institution or from a
12 financing source having a net worth of at least
13 \$50,000,000. The line of credit shall be in the
14 following amount:

15 (A) For new motor vehicle dealer applicants, \$500,000
16 or the amount required in the applicant's dealer
17 sales and service agreement, whichever is less;

18 (B) For used motor vehicle dealer applicants,
19 [~~\$50,000;~~] an amount to be determined by the
20 board but in no event more than \$100,000; and

21 (C) For new and used motorcycle and motor scooter
22 dealer applicants, \$50,000;



- 1 (2) Applicants for issuance of a dealer's license shall
2 provide the board with a photocopy of the financing
3 statement filed at the bureau of conveyances of the
4 department of land and natural resources, securing the
5 line of credit;
- 6 (3) Applicants for the issuance of an auction license
7 shall obtain a secured line of credit in the amount of
8 \$100,000 from a federally insured financial
9 institution; and
- 10 (4) When an inventory or flooring line of credit cannot
11 reasonably be obtained by a dealer, the board may
12 provide that a bond, in an amount set forth in the
13 board's rules, be obtained as an alternative form of
14 security for the inventory or flooring line of
15 credit[-]; provided that:
- 16 (A) The bond requirements shall be subject to rules
17 of the board;
- 18 (B) The bond requirements shall be similar to the
19 bond of brokers under section 437-18; and
- 20 (C) The board may increase the amount of the bond
21 pursuant to section 437-29."



1 SECTION 3. Section 437-11, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Requirements to be met before issuance of dealer's
4 and auction's license.

5 (1) The following requirements shall be met by an
6 applicant for a dealer's license before a license may
7 be issued by the motor vehicle industry licensing
8 board:

9 (A) The applicant has a site that is zoned to allow
10 the sale of motor vehicles which will be used
11 primarily for the purpose of selling, displaying,
12 offering for sale, or otherwise dealing in motor
13 vehicles;

14 (B) The site has a permanent building thereon and
15 space suitable for the display at any one time of
16 at least three motor vehicles having an average
17 wheel base of at least ninety inches; [~~and~~]

18 (C) The site has suitable sanitation facilities[~~-~~];
19 and

20 (D) The applicant presents proof of motor vehicle
21 insurance as required under section 431:10C-104
22 for every motor vehicle to be sold by the



1 applicant. This subparagraph shall not apply to
2 an applicant for a new motor vehicle dealer's
3 license or to an applicant who holds a current
4 auction license;

5 (2) The following requirements shall be met by an
6 applicant for an auction's license before a license
7 may be issued by the motor vehicle industry licensing
8 board:

9 (A) The applicant has a permanent site which will be
10 used primarily for the purpose of selling,
11 displaying, offering for sale, or otherwise
12 dealing in motor vehicles; and

13 (B) The site has suitable sanitation facilities."

14 SECTION 4. Section 437-18, Hawaii Revised Statutes, is
15 amended by amending subsection (d) to read as follows:

16 "(d) The bond shall be subject to the following
17 conditions:

18 (1) That the broker will faithfully and truly comply with
19 all the valid provisions of this chapter as the same
20 now are or may hereafter be amended, and with any rule
21 adopted by the board pursuant to this chapter;

1 (2) That the broker will not be guilty of fraud,
2 misrepresentation, or other improper business conduct
3 in connection with the selling, purchasing, financing
4 negotiating for purchase, financing, or otherwise
5 dealing with motor vehicles or any other property
6 related thereto[7] with regard to any person, and will
7 satisfy all judgments rendered against the broker
8 based in whole or in part upon representations or
9 warranties made in connection with any retail sale or
10 negotiation for the purchase of a motor vehicle; and

11 (3) That the broker will protect the treasurer of the
12 county and any purchaser of any vehicle or any person
13 acquiring any lien thereon or successor in interest of
14 any such person against any loss on account of any
15 defect in or undisclosed encumbrance upon the title of
16 any motor vehicle, registered by the treasurer in
17 reliance upon any certificate, affidavit, or other
18 representation of the dealer, or registration or
19 transfer of registration procured by the broker."

20 SECTION 5. Section 437-29, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



1 "(a) Where any applicant for a license or stockholder
2 owning more than a ten per cent interest in the applicant or any
3 officer, director, trustee, employee, or partner of the
4 applicant has been guilty of any act or omission involving
5 personal misconduct which by this chapter is made ground for
6 refusing to issue a license or for revoking or suspending a
7 license, such as the making of a false statement of a material
8 fact in an application, the commission of a fraudulent act in
9 connection with the sale or negotiation for the purchase of
10 motor vehicles, and the like, the board shall have discretion,
11 nevertheless, to issue the license or suspend or reject the
12 revocation of the license, upon such reasonable conditions,
13 including the furnishing of an additional bond [~~not exceeding~~
14 ~~\$5,000, as to future good conduct of the applicant and other~~
15 ~~person concerned, as the board determines,~~] in an amount not to
16 exceed fifty per cent of the applicable line of credit under
17 section 437-7(d)(1) for a period not to exceed three years;
18 provided the board finds:

19 (1) That there are extenuating circumstances that indicate
20 that the act or omission was not due to moral
21 turpitude; [e]



- 1 (2) That a reasonable time fixed by rule of the board, not
- 2 less than one year, has elapsed since the act or
- 3 omission occurred, together with evidence of the
- 4 person's rehabilitation or general good character,
- 5 sufficient to indicate that the person is not likely
- 6 to repeat the offense or engage in illegal, unlawful,
- 7 or unconscionable practices; or
- 8 (3) That the favorable action by the board will not
- 9 jeopardize the public interest."

10 SECTION 6. Statutory material to be repealed is bracketed
 11 and stricken. New statutory material is underscored.

12 SECTION 7. This Act shall take effect upon its approval.

13

INTRODUCED BY: Denny Coffman

[Signature]
[Signature]
[Signature]
Linda Ichizawa

JAN 18 2013



H.B. NO. 572

Report Title:

Motor Vehicle Industry Licensing Act

Description:

Requires annual used motor vehicle site inspections. Requires motor vehicle insurance on a vehicle prior to release from auction. Requires motor vehicles to be insured prior to release from auction. Amends requirements to obtain a dealer license. Amends bond requirements in lieu of a flooring line of credit.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



**PRESENTATION OF THE
MOTOR VEHICLE INDUSTRY LICENSING BOARD**

TO THE HOUSE COMMITTEE ON TRANSPORTATION

TWENTY-SEVENTH LEGISLATURE
Regular Session of 2013

Wednesday, February 13, 2013
10:00 a.m.

**TESTIMONY ON HOUSE BILL NO. 572, RELATING TO THE MOTOR VEHICLE
INDUSTRY LICENSING ACT.**

TO THE HONORABLE RYAN I. YAMANE, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Werner Umbhau and I am the Chairperson and a public member of the Motor Vehicle Industry Licensing Board ("Board"). The Board has not had an opportunity to discuss House Bill No. 572, Relating to the Motor Vehicle Industry Licensing Act, but will do so on February 19, 2013, during its regular board meeting. At this time, I would like to offer comments for the Committee's consideration.

House Bill No. 572 proposes to amend Chapter 437, HRS by, among other things, imposing additional regulations for used motor vehicle dealers and increasing the licensing fees for both franchised (new motor vehicle dealers) and used motor vehicle dealers.

Specifically, this measure would require the Board, through its staff or consultants, to conduct physical inspections of **all** used motor vehicle premises on an **annual basis**. To defray the cost of the inspections, all motor vehicle dealers, both new and used, would be assessed a \$250.00 fee when they apply for licensure and at the biennial license renewal. This proposal would also require used motor vehicle dealers to show proof of insurance for each vehicle they are going to sell and for each vehicle they

acquire at a motor vehicle auction. In addition, the measure would amend Chapter 437, HRS, by inserting a zoning requirement for all motor vehicle dealer premises. And finally, the proposal seeks to increase certain bond requirements.

H.B. No. 573 is similar to S.B. 2296 (2012), which was deferred last session. The Board opposed that measure on the basis that it does not have jurisdiction over insurance and zoning, and that current statutes and ordinances are in place to regulate them. Regarding this bill, there does not appear to be extensive problematic licensee activity that would warrant the type of inspection being proposed.

Thank you for the opportunity to submit comments on House Bill No. 572.